

EXHIBIT G –

Part 2

Exhibit B

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO.: 07 CV 03307
-----x

5 FEN Z. CHEN, JIN L. DONG, DE Q. LIAN,
6 DIAN LIN, GONG Y. WANG, ZHU K. YONG,
7 JIN D. YOU and CONG D. ZHENG,

8 Plaintiffs,

9 -against-

10
11 REPUBLIC RESTAURANT CORP., REPUBLIC GC,
12 LLC, ME'KONG DELTA, INC., HUY CHI LE,
13 LINH HUE LE, and LIANG JIN LIN,
14

15 Defendants.

16
17 February 21, 2008
18
19 9:30 a.m.
20
21
22
23
24
25

26 DEPOSITION of HUY CHI LE,
27 a Defendant in the above-captioned matter, taken
28 by Plaintiffs, held at the offices of Davis Polk
29 & Wardwell, 450 Lexington Avenue, New York, New
30 York, before Eileen Mulvenna, CSR/RMR, Certified
31 Shorthand Reporter, Registered Merit Reporter and
32 Notary Public of the State of New York.
33
34
35

1 Huy Chi Le

2 A. (In English) I'll try to get it.

3 (Through interpreter) I'll try to
4 get it.

5 Q. We'd ask if you have any of those,
6 you produce them.

7 DOCUMENT/DATA REQUESTED:

8 A. I don't have them yet.

9 Q. The drop in the volume of business,
10 was that the only reason you changed the delivery
11 workers' schedules in April of 2007?

12 A. You can say that.

13 Q. So the filing of this lawsuit in
14 April of 2007 by the delivery workers claiming
15 that they weren't paid for minimum wage and
16 overtime and the timing of the changing of the
17 delivery workers' schedule in April of 2007,
18 that's just a coincidence?

19 MS. NEW: I'll object to the form of
20 the question.

21 You can answer.

22 A. You can say that. And in addition,
23 before the lawsuit began, my employees have
24 requested to work less hours because there are
25 ten of them and they pool their tips together.

1 Huy Chi Le

2 So whether they work more or less hours, they
3 make the same amount because the main part of
4 their income is from tips.

5 Q. Who did they -- and I assume when
6 you're saying your employees, that you're
7 referring to the delivery workers?

8 A. Yes.

9 Q. To whom did the delivery workers
10 make their complaints about wanting to work less
11 hours?

12 A. I don't remember. I heard it
13 verbally from someone.

14 Q. Who did you hear that from?

15 A. I don't remember.

16 Q. So you're testifying then that prior
17 to April of 2007, workers who -- delivery workers
18 who arrived at the restaurant in the morning,
19 half of them had the hours of 2:30 to 5:30 off?

20 A. Yes, for all along, during that
21 break, either from -- whether it be from 2:30 to
22 5:30 or until 6:30, half of the people left.

23 MR. MILLER: I'm going to mark this
24 Plaintiffs' Exhibit 8.

25

1 Huy Chi Le

2 was -- I didn't do it correctly. And so
3 subsequently I made changes.

4 Q. Was it your testimony that the
5 reason why the delivery workers -- strike that.

6 A. Did the waiters receive tips?

7 Q. Yes.

8 A. Did the busboys receive tips?

9 Q. Yes.

10 A. Did the bartenders receive tips?

11 Q. I think so.

12 A. And they were all required to use
13 the punch clock?

14 Q. Yes.

15 Q. Did they ever express any concerns
16 with using the punch clock?

17 A. No, they were very willing to do it.

18 Q. But the delivery workers were not
19 willing to do it; is that your testimony?

20 A. That's right. The delivery staff
21 were very unhappy that all their wages appear on
22 the -- on the check. They preferred cash so that
23 they could be then regarded as low income which
24 qualifies them for Medicaid, food stamp,
25 low-income housing. And also, other benefits for

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1 Huy Chi Le

2 their children and also at the end of the year,
3 they can get a few thousand dollars.

4 So it was under great duress that I
5 made changes in 2006. Up till now, with the new
6 system starting in April of 2007, many employees
7 have a hard time adjusting to reporting their --
8 reporting all their tips, especially tips paid in
9 cash.

10 And last year I had a very big
11 problem. My employees got into trouble over
12 reporting the tips because they pool their tips.
13 So I know how much credit card -- credit card
14 tips amounted to and, also, their total amount in
15 tips. And I am responsible to report it for
16 them. They were very unhappy.

17 So I had to hold a meeting to
18 explain it to them; but in the end, they didn't
19 accept it. So up till now, I'm still reporting
20 on what they tell me to report, especially cash
21 tips.

22 Q. So have your reporting practices
23 regarding the delivery workers' wages and tips,
24 have they changed since April of 2007?

25 A. Are you asking me whether there's

Exhibit C

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4 Case No. 07-CV-03307

5 -----x
6 FEN Z. CHEN, JIN L. DONG,
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13 REPUBLIC GC, LLC; ME'KONG DELTA,
INC., HUY CHI LE, LINH HUE LE,
and LIANG JIN LIN,

14

Defendants.

15 -----x

16 March 3, 2008
9:45 a.m.

17

18 Deposition of LINH HUE LE, taken by
19 Plaintiffs, pursuant to Notice, held at
20 the offices of Davis Polk & Wardwell, 450
21 Lexington Avenue, New York, New York,
22 before Jomanna DeRosa, a Certified
23 Shorthand Reporter and Notary Public of
24 the State of New York, New Jersey, and
25 California.

1 | L. LE

2 A. Yes.

3 Q. And did you ever forward
4 payroll information to Stella Kwon?

5 A. Yes.

6 Q. She's the accountant. Correct?

7 A. Yes.

8 Q. So, you would forward the kind
9 of stuff -- the kind of payroll records
10 you just described to me to her?

11 A. Yes.

12 Q. How often would you do that?

13 A. Once a week, right after we
14 settled the record for that week.

15 Q. Would you ever forward payroll
16 information to Stella Kwon about --
17 related to delivery employees?

18 A. I'm responsible to bring the
19 tips record to the accountants, but
20 Mr. Lin is the one who actually worked on
21 the working schedule and -- and the
22 payroll, and the in and out record.

23 Q. So, you were responsible for
24 forwarding information about the tips
25 received by the delivery workers to

1 L. LE

2 Ms. Kwon?

3 A. Since I was never involved in
4 the record of the delivery guys' tips
5 record, I only forward this information to
6 the accountant after Mr. Lin finished
7 working on it.

8 Q. Would you review it at all
9 before forwarding it on to Ms. Kwon?

10 A. No, I don't have to. I only
11 working as a person that bring this
12 information to the accountants because I'm
13 not involved with this tips record of the
14 delivery department.

15 Q. So, you would not review
16 records relating to delivery employees at
17 all for accuracy before giving them to
18 Ms. Kwon?

19 A. Right.

20 Q. And you only forwarded to
21 Ms. Kwon tips records relating to delivery
22 employees. Right?

23 A. As well as the in and out work
24 schedule delivery people.

25 Q. Just so I understand, so, you

1 L. LE

2 Q. Okay. And how do you -- what's
3 the basis of your understanding about the
4 shifts that the delivery workers work?

5 A. Because I have seen the
6 information from the paperwork that I
7 delivered to Stella that I have some kind
8 of impression.

9 Q. Okay. What paper are you
10 referring to specifically? Can you
11 describe for me the documents you're
12 referring to when you say the "paper" that
13 you delivered to Stella?

14 A. That's in our schedule, and
15 have signatures on it.

16 Q. So you're talking about time in
17 and time out?

18 A. Yes.

19 Q. Are you referring to any other
20 types of documents?

21 A. Of course, also with the tips
22 record.

23 Q. And how long have you been
24 delivering those types of documents to
25 Stella?

1 L. LE

2 A. All the time.

3 Q. Since you started working at
4 the restaurant?

5 A. That's right, because the
6 delivery people don't know any English,
7 and that's why I've always been helping
8 them to send this in.

9 Q. What do you mean you've been
10 helping them to "send this in"?

11 A. What I mean is I've been
12 helping them to send these schedules and
13 the tips record to Stella every week.

14 Q. And how long has the restaurant
15 maintained the sign in and sign out sheets
16 for delivery workers?

17 A. I don't remember that well
18 regarding this.

19 Q. Do you recall sending sign in
20 and sign out sheets relating to delivery
21 workers to Stella prior to April of 2007?

22 A. Yes.

23 MR. ADLER: To the -- I guess
24 for the record, to the extent that
25 defendants have not produced records

1 L, LE

2 agencies.

3 Q. And I just want to make sure to
4 get an answer because I'm not sure I got
5 one before. Did any of the delivery
6 workers ever ask you to be paid in that
7 way, meaning a lump sum per month, as
8 opposed to an hourly wage?

9 A. That's what they said when they
10 first come into this restaurant. They
11 would always ask if you would pay \$700 per
12 month.

13 Q. They would ask you that?

14 A. Well, at the time, when I pick
15 up this information from the head of the
16 deliveries, then I would hear from him.
17 That's why I know about this figure, \$700.

10. **2** **Segment to be closed with**

19 delivery workers never asked you directly
20 that information?

21 A. Right.

22 Q. Now, you said that the delivery
23 workers wanted to be paid that way so that
24 they could qualify for certain benefits.

1 L. LE

2 A. The delivery guys did tell me
3 in the past about this kind of thing.

4 Q. They told you directly?

5 A. Yes. They told me do not
6 report that much income for me because if
7 you do that, I will not be able to get any
8 refund from the IRS.

9 Q. And which delivery workers told
10 you that?

11 A. It's been a long time ago,
12 however, there were a lot of them who
13 asked me that kind of request -- I would
14 say that kind of reminder. They always
15 told me, well, the amount of income the
16 restaurant reported has been too high for
17 me, and I become not qualified for
18 Medicaid, and it's too expensive for me to
19 see doctor now.

20 Q. But you don't remember which
21 delivery workers told you that
22 information?

23 A. That's right. I don't remember
24 the names

25 Q. Do you remember when they told